

RECORD OF DECISION

For

County J/WIS 164 Corridor Study (I-94 to County E)

Waukesha and Washington Counties, Wisconsin

WisDOT Project I.D. 2748-01-01

FHWA-WIS-EIS-01-01-F

Decision

The 18-mile (29-km) County J/WIS 164 project extends from Rockwood Drive north of I-94 in Waukesha County to a point north of County E in Washington County (see EIS Exhibit 2-9). Improvements are proposed to address present and emerging safety concerns, provide a recommended plan to guide future land use and development, improve local and through traffic operations and safety, and to serve traffic demand generated by existing and planned development. The selected improvement alternative is described in detail in Section 2 (Alternatives/Recommended Alternative) of the Final Environmental Impact Statement (EIS) approved by the Federal Highway Administration (FHWA) on December 11, 2001.

The selected alternative is summarized below. Additional information is provided in EIS Exhibit 2-10, and the alternative is illustrated in EIS Exhibit 2-9. Selection was based on evaluation and consideration of all comments received during the public involvement process, public hearing testimony and other public comments received during the EIS availability period, comments received from state and federal review agencies, environmental and engineering factors, consistency with local and regional transportation/land use plans, and documentation on how the proposed improvements will address long-term traffic and safety needs.

The proposed long-term improvement is to widen County J/WIS 164 on its present alignment, incorporating all or portions of the existing 2-lane highway as part of the ultimate 4-lane divided facility. Widening transitions from east to west, or down the middle, to avoid or minimize impacts to adjacent homes and businesses, cemeteries, and natural resources. The selected alternative provides the best balance among sound engineering design, addressing long-term travel demand and safety, and minimizing overall social, economic, and natural resource impacts.

The selected alternative includes the following features that were the direct result of citizen, local government, and agency input during development of the EIS:

Reduced Cross Sections—Based on community input that the project corridor is transitioning from rural to urban/suburban land use, urban and hybrid urban/rural cross sections were selected, thus reducing the impact “footprint” and the amount of new right-of-way needed to widen the existing highway.

The urban cross section requires a total of approximately 130 feet (40 meters) of right-of-way, and the hybrid urban/rural cross section requires a total of approximately 160 feet (49 meters). The existing right-of-way in Waukesha County is 100 feet (30 meters) wide, and is generally 66 feet (20 meters) wide in Washington County.

Reduced Speed Limit—A 45 mph (70 km/h) speed limit is proposed throughout most of the corridor in Waukesha County (Rockwood Drive to Plainview Road), and at several intersections in Washington County.

Implementation Time Frame—An “urban threshold” of 13,000 ADT (Average Daily Traffic) is being used to set the time frame in which the ultimate 4-lane improvements would be implemented.

In Waukesha County (project sections 1 through 4), traffic is already at 13,000 ADT, or will be at that level in Design Year 2025. In Washington County (project sections 5 through 8), the threshold would not likely be reached until after Design Year 2025 based on an intermediate growth scenario envisioned in the *2020 Regional Transportation System Plan for Southeastern Wisconsin*. The EIS makes a commitment that the ultimate 4-lane facility will not be constructed until or if traffic reaches 13,000 ADT.

For the Washington County portion of the corridor, the selected alternative includes interim 2-lane improvements that would be made when safety, pavement condition, and/or capacity concerns indicate the need prior to the time traffic reaches 13,000 ADT. The interim improvements could include intersection signalization and turning lanes at some locations; improving sight distance at several hills; and widening the pavement, shoulders, and clear zones at spot locations.

Alternatives Considered

No Build Alternative

Under the No Build Alternative, no additional highway capacity would be provided. No improvements other than normal pavement maintenance, spot traffic operation improvements, and minor safety improvements within existing highway right-of-way would be made. The No Build Alternative was not selected because it fails to address project purpose and need with respect to future traffic demand, existing highway deficiencies and safety concerns, and because it is not consistent with local and regional transportation system plans.

Transportation Control and Transportation System Management Measures

These alternatives evaluated whether expanded mass transit or maximum investment in upgrading existing highways in the region, short of adding capacity, would address project purpose and need. Both were eliminated as stand-alone, long-term solutions because they would not address future traffic demand or existing and emerging safety issues on County J/WIS 164. These types of improvements are already assumed in the traffic model for the *2020 Regional Transportation System Plan*. The plan concludes that even with intermediate growth, greatly expanded mass transit, compact community development/redevelopment, and maximum investment in upgrading existing highways short of adding capacity, numerous arterial streets and highways in the region, including County J/WIS 164 need to have additional capacity.

Build Alternatives

The EIS evaluated a broad range of Build Alternatives that included 4-lane “on alignment” and “off alignment” alternatives (including alignments outside the County J/WIS 164 corridor), and a 2-lane improvement alternative.

In general, the off-alignment alternatives were not selected because they would not divert enough traffic from County J/WIS 164 to preclude widening the existing highway in addition to constructing the new off alignment alternative. In addition, the off alignment alternatives would have substantially greater impacts than widening the existing highway.

The 2-lane improvement alternative was not selected as a stand-alone, long-term improvement option in Waukesha County because traffic volumes already exceed (or will exceed in Design Year 2025) the 13,000 ADT threshold for a 2-lane urban/suburban highway. In Washington County, the 2-lane improvement alternative is considered an interim improvement that would be incorporated into the ultimate 4-lane alternative. It was eliminated as a stand-alone alternative because it would not preserve a future 4-lane highway corridor to address traffic increases beyond 2025, or increases that may occur before then. In addition, the 2-lane alternative as a stand-alone improvement would not be consistent with local and regional transportation system plans that call for additional capacity on County J/WIS 164.

The reasonable Build Alternatives evaluated in the EIS focused on reconstructing County J/WIS 164 to a 4-lane divided highway by adding a median and two additional driving lanes east or west of the existing highway, or widening down the middle.

Following is a brief summary of the reasonable Build Alternatives considered in the EIS, identification of the selected alternative, and key reasons why it is considered to be the environmentally preferred alternative (causing the least damage to the biological and physical environment).

Project Section 1 (I-94 to Capitol Drive)

The reasonable Build Alternative included a combination of Alternatives 1B (widen east) and 1C (widen down the middle) using an urban typical section. The selected alternative is as follows:

- Widen east between Rockwood Drive and Riverpark Drive.
 - Minimizes impacts to the Riverpark Meadows Condos, Saddlebrook Apartments, and Avondale subdivision.
- Widen down the middle between Riverpark Drive and a point south of the CP Railroad.
 - Minimizes impacts to the Pewaukee Woods Center and St. Bartholomew's Church.
 - Avoids impacts to wetland W-3 east of the highway.
- Widen east from a point south of the CP Railroad to Capitol Drive and provide a local service road in the northeast quadrant of the County J/Capitol Drive intersection.
 - Avoids displacing Wisconsin Electric's facility, the City of Pewaukee office building, two residences, and the commercial development in the southeastern quadrant of the County J/Capitol Drive intersection.

Based on the corridor study level of engineering, the selected alternative in project section 1 requires 6 to 9 acres (2.4 to 3.6 ha) of new right-of-way depending on the extent of cut and fill such as in the area near the CP Railroad bridge and the hill south of Capitol Drive, 0.8 acre (0.3 ha) of wetland, and 4 residential displacements. Approximately half of the wetland impacts in

this section (0.35 acre/0.14 ha from wetland W-1) are due to avoiding impacts to the Avondale subdivision.

Project Section 2 (Capitol Drive to Pewaukee Road)

The reasonable Build Alternative included a combination of Alternatives 2A (widen west) and 2C (widen down the middle) using an urban typical section. The selected alternative is as follows:

- Widen west between Capitol Drive and Chesterwood Lane.
 - Avoids displacing the Shepherd of the Hills Church east of the highway.
 - Avoids impacts to wetland W-5 east of the highway.
- Widen down the middle from Chesterwood Lane to a point south of Lindsay Road, then widen east to a point north of Lindsay Road.
 - Balances impacts to the Lake Park Subdivision and the Fairfield Condominiums, and may preserve the landscape berm along the Fairfield Condominiums property and the drainage/wetland pockets in the Lake Park Subdivision.
 - Avoids 2 residential displacements in southwest quadrant of WIS 164/Lindsay Road intersection and utilizes right-of-way from the common area in the Lake Park Subdivision rather than from individual properties.
 - Avoids impacts to wetlands W-7, W-8, and W-9 west of the highway.
- Widen west from point north of Lindsay Road to Pewaukee Road.
 - Minimizes impacts to the larger, higher quality wetland located east of the highway.

Based on the corridor study level of engineering, the selected alternative in project section 2 requires 16 acres (6.5 ha) of new right-of-way, 4 acres (1.6 ha) of wetland, and 3 residential displacements. Because wetlands (W-6 and W-10) are located on both sides of the highway between Capitol Drive and Chesterwood Lane, it is not possible to avoid wetland impacts in this area. Of the total 4 acre/1.6 ha wetland impact, 3.5 acres (1.4 ha) is from wetland W-10 located west of the highway.

Project Section 3 (Pewaukee Road to Jay Lane)

The reasonable Build Alternative included a combination of Alternatives 3A (widen west), 3B (widen east), and 3C (widening down the middle) using an urban typical section. All alternatives involved a grade separation at the UP Railroad north of County VV. Two options for providing local access near the railroad grade separation were considered. The selected alternative is as follows:

- Widen west between Pewaukee Road and the commercial development south of County VV.
 - Avoids impacts to wetlands W-13 and W-15 east of the highway.
- Widen down with middle from the commercial development south of County VV to a point near Hillside Road.
 - Minimizes impacts to businesses near the County VV intersection
- Widen west from just north of the UP Railroad to a point north of Hillside Road.
 - Avoids the Lisbon Presbyterian Church east of the highway.
- Widen east from a point north of Hillside Road to Howard Lane.
 - Avoids impacts to wetlands W-21 and W-22 west of the highway.
- Widen west between Howard Lane and Jay Lane
 - Avoids a residential displacement east of the highway.

The selected alternative for providing local access near the UP Railroad overhead is the “Alternative 2” plan described under “Recommended Alternative” in EIS Section 2. The Alternative 2 local access plan was selected because it would eliminate the at-grade railroad crossing associated with Alternative 1. It also provides more direct access to Stonegate Court and helps to reduce traffic on Hillside Road south of Good Hope Road.

Based on the corridor study level of engineering, the selected alternative in project section 3 requires 11 acres (4.5 ha) of new right-of-way, 5.2 acres (2 ha) of wetland, and one residential displacement.

Project Section 4 (Jay Lane to Bark River)

The reasonable Build Alternatives included Alternatives 4A (widen west) and 4B (widen east) using an urban typical section in the segment between Jay Lane and Plainview Road, and a hybrid urban/rural typical section between Plainview Road and the Bark River. The selected alternative is Alternative 4A (widen west).

The selected alternative requires 1 residential displacement in the segment between Jay Lane (north leg) and Plainview Road compared to 3 displacements with widening east. It also avoids proximity impacts to the Spring Hill Boulevard subdivision, impacts to a business and residence, impacts to the Songbird Hills Golf Course, and impacts to ADID wetland W-24 east of the highway.

Based on the corridor study level of engineering, the selected alternative in project section 4 requires 7 acres (2.8 ha) of new right-of-way, 0.7 acre (0.3 ha) of wetland, and 6 residential displacements.

Project Section 5 (Bark River to Monches Road)

The reasonable Build Alternative included a combination of Alternatives 5A (widen west) and 5B (widen east) as the ultimate long-term improvement using a hybrid urban/rural typical section except at some locations where a narrower typical section would be used to further minimize impacts. Until or if traffic reaches the 13,000 ADT threshold for expanding from two to four lanes, the ultimate 4-lane improvements would be implemented through corridor preservation. Alternative 5X (2-lane improvements) was retained as a possible interim improvement option in Washington County. The selected alternative is as follows:

- Widen west from the Bark River to Hickory Road.
 - Minimizes impacts to the large wetland complex on the east side of WIS 164.
- Widen down the middle with a narrower typical section from Hickory Road to just south of Riverview Drive.
 - Alignment and use of a narrower typical section minimizes overall impacts to homes on both sides of the highway as well as proximity impacts to the Bark River Country Meadows subdivision.
- Widen east with a narrower typical section from Riverview Drive to a point north of St. Columba’s Church and cemetery.
 - Alignment and use of a narrower typical section avoids impacts to the cemetery west of the highway and minimizes impacts to the church parcel east of the highway.
- Widen west from a point north of St. Columba’s Church and cemetery to Monches Road.
 - Avoids an extensive roadway cut from Shady Lane to Upland Drive that would cause proximity impacts to the Country Squire Estates subdivision east of the highway.

Two-lane interim improvements in Washington County would be made when safety, pavement condition, and/or capacity concerns indicate the need prior to the time the 13,000 ADT threshold is exceeded. Interim improvements are expected to include signalizing the County Q intersection and improving sight distance at the hill near the northern WIS 164/Shady Lane intersection. The County Q intersection improvements are already included in WisDOT's Six Year Improvement Program.

Based on the corridor study level of engineering, the selected alternative (ultimate 4-lane highway) in project section 5 requires 8.5 acres (3.4 ha) of new right-of-way, 0.3 acre (0.1 ha) of wetland and 7 residential displacements.

Project Section 6 (Monches Road to Oconomowoc River)

The reasonable Build Alternative included a combination of Alternatives 6A (widen west), 6B (widen east) and 6C (widening down the middle) as the ultimate long-term improvement using hybrid urban/rural typical section. Until or if traffic reaches the 13,000 ADT threshold for expanding from two to four lanes, the ultimate 4-lane improvements would be implemented through corridor preservation. Alternative 6X (2-lane improvement) was retained as a possible interim improvement option. The selected alternative is as follows:

- Widen west between Monches Road and a point south of Hubertus Road near the Richfield Fire Station.
 - Requires displacing the Town of Richfield fire station (which could likely be rebuilt on the existing parcel remnant) but avoids 3 residential displacements near Cherokee Trail.
- Widen east from north of the Richfield Fire Station to Hubertus Road.
 - Minimizes proximity impacts to two residences west of WIS 164.
- Widen east from Hubertus Road to just south of Ada Hi Court.
 - Reduces the number of residential displacements to 7 compared to 10 with widening west. While widening down the middle from south of Golden Drive to Ada Hi Court would reduce overall residential displacements to 5, it would result in substantial proximity impacts for the remaining 8 residences in the area.
 - Widening east also provides the opportunity to align Golden Drive with Loch View Drive, with one median opening to serve both public streets.
- Transition to widen west just south of Ada Hi Court to set up avoidance of Friess Lake School north of WIS 167.
 - There would be 2 residential displacements in the area with either the east or west alternative.
- Widen west from WIS 167 to just south of the Oconomowoc River crossing.
 - Avoids proximity impacts to the Friess Lake School property in the northeast quadrant of the WIS 164/WIS 167 intersection and to the Sunsetview Restaurant in the southeast quadrant.

Two-lane interim improvements would be made when safety, pavement condition, or capacity concerns indicate the need prior to the time the 13,000 ADT threshold is exceeded. Interim improvements are expected to include improving sight distance at the WIS 164/Hubertus Road and WIS 164/WIS 167 intersections by cutting hills, signalizing the WIS 164/WIS 167 intersection when signal warrants are met, and improving the highway grade north of the Monches Road intersection when operational or safety problems occur. The Hubertus Road intersection improvements are included in WisDOT's Six Year Improvement Program.

Based on the corridor study level of engineering, the selected alternative (ultimate 4-lane highway) in project section 6 requires 23.5 acres (9.5 ha) of new right-of-way, no wetland impacts, 9 residential displacements and one business displacement (Town of Richfield Fire Station).

Project Section 7 (Oconomowoc River to Pioneer Road)

The reasonable Built Alternative included a combination of Alternatives 7A (widen west) and 7B (widen east) as the ultimate long-term improvement using a hybrid urban/rural typical section. Until or if traffic reaches the 13,000 ADT threshold for expanding from 2 to 4 lanes, the improvements would be implemented through corridor preservation. Alternative 7X (2-lane improvement) was retained as a possible interim improvement option. The selected alternative is as follows:

- Widen west from a point south of the Oconomowoc River to a point near the Graystone Subdivision.
- Widen down the middle with a narrower typical section at the Graystone Drive entrance to Graystone Subdivision. Alignment and narrower typical section minimizes impacts to the Graystone Subdivision.
- Widen west with a narrower typical section from Graystone Drive through the Pleasant Hill Road intersection.
 - Alignment and narrower typical section minimizes impacts to development in the Pleasant Hill Road intersection area.
 - Requires 2 residential displacements compared to 3 with widening east.
- Widen east from a point north of the Pleasant Hill Road intersection to Pioneer Road.
 - Avoids the First Presbyterian Church Cemetery.

Two-lane interim improvements would be made when safety, pavement condition, and/or capacity concerns indicate the need prior to the time the 13,000 ADT threshold is exceeded. Interim improvements would primarily consist of improving sight distance at the Pleasant Hill Road intersection by removing building obstructions along the west side of the highway.

Based on the corridor study level of engineering, the selected alternative (ultimate 4-lane highway) in project section 7 requires 11 acres (4.5 ha) of new right-of-way, 0.8 acre (0.3 ha) of wetland, and 4 residential displacements.

Section 8 (Pioneer Road to County E)

The reasonable Build Alternatives included Alternatives 8A (widen west) and 8B (widen east) as the ultimate long-term improvement, using a hybrid urban/rural typical section. Until or if traffic reaches the 13,000 ADT threshold for expanding from 2 to 4 lanes, improvements would be implemented through corridor preservation. Alternative 8X (2-lane improvement) was retained as a possible interim improvement option. The selected alternative is Alternative 8A (widen west).

Widening west would have fewer overall impacts than widening east. Widening west would minimize impacts to the larger wetland on the east side of WIS 164, and would require 3 residential displacements compared to 7 with widening east. In addition, a slight curve in the existing highway at the Pioneer Road intersection will be removed, providing a smooth transition from widening east south of Pioneer Road to widening west north of Pioneer Road.

Two-lane interim improvements would be made when safety pavement condition, and/or capacity concerns indicate the need prior to the time the 13,000 ADT threshold is exceeded. Interim improvements would consist of eliminating sight distance constraints, most notably near the County E intersection.

Based on the corridor study level of engineering, the selected alternative (ultimate 4-lane highway) requires 16.5 acres (6.7 ha) of new right-of-way, 3.3 acres (1.3 ha) of wetland, and 3 residential displacements. It would also require a total of about 0.3 acre (0.1 hectares) of new right-of-way from the two undeveloped fingers of land that are part of Heritage Trails Park.

Section 4(f) and Section 6(f)

The Bugline Recreation Trail owned and administered by Waukesha County, and Heritage Trails Park owned and administered by Washington County, are the Section 4(f) and Section 6(f) resources affected by the reasonable Build Alternatives presented in the EIS. Detailed discussion on the affected resources, avoidance alternatives including the No Build Alternative, and measures to minimize harm are discussed in EIS Section 5, “Section 4(f) and 6(f) Evaluation”.

The selected alternative in project section 3 (Pewaukee Road to Jay Lane) requires constructing clear-span bridges over the Bugline Recreation Trail at WIS 164, and crossing the trail at-grade with a low-volume local access road west of WIS 164. The selected alternative requires a total of approximately 0.16 acre (0.06 ha) of right-of-way from the trail. Clear-span bridges at the WIS 164 crossing will maintain trail continuity and improve safety by eliminating future conflicts with vehicular traffic as well as the need for trail users to cross the 4-lane divided highway. Use of aesthetically treated bridge abutments and providing open space between the two bridges to provide daylight will help offset any adverse visual effects.

The approved Final EIS demonstrates there are no prudent and feasible alternatives to the trail impacts and that all practicable measures to minimize harm have been incorporated. During a future engineering design phase, WisDOT will coordinate with Waukesha County regarding details of the trail crossing, and with the Wisconsin Department of Natural Resources (DNR) to develop a specific compensation plan for Section 6(f) aspects under the LAWCON Act.

The selected alternative in project section 8 (Pioneer Road to County E) requires purchasing a total of approximately 0.33 acre (0.1 ha) of right-of-way from the undeveloped fingers of Heritage Trails Park that extend to the existing highway right-of-way. The approved Final EIS demonstrates there are no prudent and feasible alternatives to use of land from the park, and that all practicable measures to minimize harm have been incorporated. Options for compensating parkland loss could involve purchasing replacement parkland in the immediate area between the two fingers of land, or monetary reimbursement under the National Park Service Small Conversion Policy for land that was purchased or improved with funds under the LAWCON Act.

Measures to Minimize Harm

Specific measures to minimize adverse environmental impacts of the selected alternative are discussed in EIS Section 6, “Commitment to Impact Mitigation”. Key measures with respect to natural resources are summarized as follows:

Water Quality

Construction in and near waterways would be performed in accordance with WisDOT *Standard Specifications for Road and Bridge Construction*, Wisconsin Administrative Code Chapter TRANS 401—*Construction Site Erosion Control and Storm Water Management Procedures*, and the WisDOT/DNR Cooperative Agreement *Memorandum of Understanding on Erosion Control and Storm water Management*.

Floodplain and Hydraulics

All structures would have adequate capacity for 100-year flood flow without public or emergency vehicle interruption from damage to the roadway or structures. Floodplain crossings would be consistent with local floodplain management goals and objectives, and impacts to natural and beneficial floodplain values would be minimized to the extent practicable.

Wetlands

Measures to minimize wetland impacts are summarized as follows:

- An urban typical section will be used at all of the affected wetlands in project sections 1 through 3 and a portion of project section 4 (to Plainview Road). A narrowed typical section will also be used at the Bark River and Oconomowoc River crossings to minimize impacts to the ADID wetlands at these locations.
- Roadway design features will include keeping the roadway sideslopes as steep as possible, installing equalizer pipes where needed to maintain wetland flow and hydrology, and disposal of any excavated wetland soil on the new roadway slopes or in an upland area.
- Construction will include strict temporary and permanent erosion control measures such as silt fence, ditch checks, geotextile fabric, and erosion control bales to minimize siltation into adjacent wetlands. Storm water management measures will also be implemented to minimize wetland and water quality impacts.

Compensation for unavoidable wetland loss will be carried out in accordance with the WisDOT/DNR *Cooperative Agreement on Compensatory Wetland Mitigation*. First priority will be given to seeking a nearby wetland restoration site. As an alternative, use of an established WisDOT wetland bank site would be considered. In either case, unavoidable wetland loss will be fully compensated at an appropriate replacement ratio that would be no less than 1 : 1 (one acre restored/created for each acre lost).

Threatened and Endangered Species

The slender madtom, a state-listed endangered fish species, is known to occur in parts of the Oconomowoc River. All work at the Oconomowoc River that could potentially affect water quality would be avoided between May 15 and June 15 to protect critical fish spawning periods.

Barn swallow nests are located under the Bark River box culvert. Mitigation measures to avoid impacts to barn swallow nests include the following:

- Demolition of the existing structure, if needed, would occur outside the nesting season (May 15 to August 20) or would take place during the nesting season if a depredation permit were obtained from the U.S. Fish and Wildlife Service.
- The nests would be removed before the nesting season, or other means would be implemented to prevent nesting such as placement of netting on the structure prior to the nesting season.

The Butler's garter snake, a state-listed threatened species is present at four locations that would be affected by the selected alternative. A conservation plan has been developed in consultation with DNR and includes the following components:

- The selected alternative will be designed to avoid the snake's habitat as much as possible. The wetland/upland interface areas are considered to be the most important habitat component.

- Prior to construction and seasonal dispersal of snakes, placement of snake exclusion barriers is recommended such that snakes cannot move into construction areas, and to allow for removal of snakes from within the areas to be impacted.
- WisDOT will coordinate with DNR on the appropriate seed mix to use on the highway sideslopes along snake habitat areas, as well as mowing practices.
- Underpasses or other movement devices will be constructed at the four locations where snake habitat is found on both sides of the highway.
- To determine whether preservation measures are successful, WisDOT will monitor Butler's garter snake populations 3 years and 5 years following construction.

Archaeological Resources

The literature search conducted as part of the archaeological investigation for the County J/WIS 164 corridor study indicated two previously recorded archaeological sites in the vicinity of the WIS 164/Lindsay Road intersection, and one in the vicinity of the WIS 164/Pleasant Hill Road intersection. Although further investigation did not locate any remnants of these sites, it was agreed that the future right-of-way needed for the WIS 164 improvements would need to be carefully excavated during any future highway construction to confirm whether burials are present. A qualified archaeologist and/or Native American representative would be on site during the excavation.

Wetland Only Practicable Alternative Finding

The project has been developed pursuant to Presidential Executive Order 11990—*Protection of Wetlands*. Based on evaluation of all alternatives, it has been determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands and related resources that may result from such action. A detailed discussion on how wetland impacts were avoided or minimized, measures to minimize harm to wetlands that cannot be avoided, and the conceptual compensation plan for unavoidable wetland loss is provided in EIS Section 7, "Wetlands—Only Practicable Alternative Finding".

Monitoring and Enforcement

Monitoring and enforcement programs will consist of ensuring that contractors carry out project construction in accordance with WisDOT contract special provisions or special provisions that may be developed in conjunction with the engineering plans. Agency coordination will continue throughout the engineering design phase to ensure maximum protection of environmental resources. Project development will be monitored by WisDOT and FHWA to ensure conformance with the mitigation commitments made in the EIS prior to authorization of Federal-aid highway funds. Specific monitoring/enforcement actions identified in the EIS include the following:

- When or if project sections north of Plainview Road reach the 13,000 ADT threshold and proceed to the design engineering phase for the ultimate 4-lane facility, WisDOT will prepare a written re-evaluation of the Final EIS which will be submitted to FHWA for review and approval. The FHWA will provide a copy of the re-evaluation to the U.S. Environmental Protection Agency for their information.
- Prior to construction activities requiring discharge of fill material into waters of the United States, including wetlands, authorization will be obtained from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. Such authorization is contingent on meeting Section 404(b)(1) Guidelines for Specification of Disposal Sites for

Dredged or Fill Material, and obtaining water quality certification from the DNR under Section 401 of the Clean Water Act, and Wisconsin Administrative Code Chapter NR 299.

- Property acquisition and residential or business relocations will be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (as amended). A Relocation Assistance Plan under Section 33.25, Wisconsin Statutes, will be required for displaced residences and businesses, and will be subject to approval by the Wisconsin Department of Commerce.
- Further coordination with DNR under Wisconsin's Endangered Species Law (Section 29.604, *Wisconsin Statutes*) is required prior to construction activities that would affect critical habitat for the Butler's garter snake, a state-listed endangered species.

Comments on the Final EIS

Notice of availability of the Final EIS was published in the Federal Register on January 4, 2002, with comments due by February 11, 2002. Comments received on the Final EIS are summarized in Attachment A.

Conclusion

Based on the analysis and evaluation documented in the EIS, and after careful consideration of all social, economic, and environmental factors, including comments received on the EIS, it is FHWA's decision to adopt the selected alternative contained therein as the proposed action for this project.

Acting 

Division Administrator
Federal Highway Administration
Wisconsin Division

3/6/02

Date

Attachment A

Comments on the Final Environmental Impact Statement

Comments received during the Final EIS availability period along with FHWA's response where applicable, are summarized below.

Letters were received from the following state and federal review agencies, and Native American Tribes:

- U.S. Department of the Interior, Fish and Wildlife Service (Fish & Wildlife Service)
- U.S. Environmental Protection Agency (EPA)
- U.S. Army Corps of Engineers (COE)
- State of Wisconsin Department of Natural Resources (DNR)
- Menominee Indian Tribe of Wisconsin

1. Comment: Concurs in selection of preferred alternative, but retains concerns about lack of a detailed wetland mitigation plan and possible further degradation of water quality in the Sussex Creek tributary described in the EIS as an "impaired" waterway.

Source: EPA

Response: As discussed in the EIS, WisDOT in consultation with DNR, conducted an initial search for potential nearby wetland restoration sites along the County J/WIS 164 corridor. The search (using USDA NRCS soils maps as a starting point) encompassed a 2-1/2 mile band on each side of the highway. Letters were sent to those whose land appeared to have hydric soils and other characteristics suitable for wetland restoration. The purpose was to determine their willingness to sell or lease candidate sites for wetland mitigation purposes since WisDOT does not exercise eminent domain to acquire wetland restoration sites. To date, no viable nearby restoration site has been found due to parcel size, terrain, unwilling sellers, or unsuitable restoration potential based on further evaluation.

Therefore, wetland mitigation for the Rockwood Drive to Capitol Drive segment scheduled for construction in 2003, will be done in accordance with the *Interagency Coordination Agreement /Wetland Mitigation Banking Technical Guideline* approved by the Wisconsin Department of Transportation, the Federal Highway Administration, the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the Wisconsin Department of Natural Resources. The nearest established bank site is the 320-acre (130 ha) "Jacobson" bank site in Walworth County. Unavoidable wetland loss will be fully compensated at an appropriate replacement ratio that would be no less than 1 : 1. The final replacement ratio will be determined during Section 404 permit activities using established criteria in the *Wetland Mitigation Banking Technical Guideline*. The wetland impact for the Rockwood Drive to Capitol Drive segment is about 0.8 acre (0.34 ha). Affected wetlands include W-1 (WS), W-2 (M, SM), and W-4 (M); none are listed as ADID wetlands.

The Capitol Drive to Howard Lane segment presently targeted for construction in 2004-2005 impacts approximately 9.1 acres (3.6 ha) of wetland. Affected wetlands include W-10 (M), W-11 (M), W-12 (M, SS), W-14 (S, M), W-16 (M, SM), W-17 (M, SM), W-18 (M, WS), W-19 (M, SM), and W-20 (M, SM, SS). Wetlands W-10, W-19, and W-20 are listed as ADID wetlands.

Construction north of Howard Lane would occur much later since the 13,000 ADT threshold is not expected to be reached for 6 to 30 years, depending on future development trends. Therefore, it is premature to develop a specific wetland mitigation plan for project segments north of Howard Lane.

To address EPA's concerns regarding wetland mitigation, the following commitments are made as part of this Record of Decision:

- Wetland mitigation for the Rockwood Drive to Capitol Drive segment will occur at the Jacobson wetland bank site. EPA will be provided an opportunity to review the wetland mitigation ratio and any engineering design/construction related measures developed during the Section 404 permit process to further minimize wetland impacts in this project segment.
- Prior to using a wetland bank site to mitigate wetland loss for the Capitol Drive to Howard Lane segment, WisDOT in consultation with DNR, will conduct an expanded search for potential nearby restoration sites and will keep EPA informed of this effort. EPA will also be provided an opportunity to review the wetland mitigation ratio and any engineering design/construction related measures developed during the Section 404 permit process to further minimize wetland impacts in this project segment.

Discussion on the "impaired" water quality status of the Sussex Creek tributary provided in the Final EIS was in response to EPA's Draft EIS comment requesting additional water quality information. The following information is provided to address EPA's concern that the proposed improvements to WIS 164 could further degrade water quality in the Sussex Creek tributary.

Under Section 303(d) of the Clean Water Act, DNR is required to submit a biennial list to EPA that identifies waters not meeting water quality standards. The intent of the list is to highlight impaired waters needing attention from the perspective of water quality improvement and protection, and to help DNR prioritize their efforts to reduce or eliminate the impairments. The 1998 list identifies the Sussex Creek tributary as a waterway in which the impairment is primarily the result of non-point source runoff such as animal waste, cropland erosion, and urban runoff.

The problems with the Sussex Creek tributary are due to hydrologic modification (damming, ditching, wetland drainage), cropland erosion, and unspecified non-point sources of pollution. According to DNR, the impacts of these problem categories include loss of in-stream habitat (as a result of ditching), hydrologic modifications leading to unacceptable base flow for DNR's designated use of the tributary, excessive total suspended solids leading to turbidity, and excessive bacteria levels. Of the four categories that make the tributary an impaired waterway, highway-related issues would be related to the potential for increasing suspended solids (highway runoff, erosion and sedimentation during construction). The other categories appear to be related to past ditching, agricultural practices and runoff, or other factors such as failing septic systems. Implementation of strict erosion control and storm water management measures, such as those discussed in the EIS, will help ensure that reconstructing County J/WIS 164 will not substantially contribute to further water quality degradation. Water quality aspects including erosion control and storm water management will be coordinated with DNR under established procedures between that agency and WisDOT.

2. Comment: Concurs with conclusions reached regarding the preferred alternative. Notes that comment response #14 on EIS page 9-10 incorrectly implies that the COE approved the wetland fill associated with reconstruction of County J in 1985.

Source: COE

Response: The background information provided in comment response #14 is accurate. However, to make it clear that the COE was not part of any approvals associated with environmental document activities, the concluding sentence should have restated that “approval of the environmental document” refers to WisDOT approval (as clearly stated in the second paragraph of the comment response) and not approval by the COE.

3. Comment: Concurs in Final EIS. Reiterates recommendations to provide wildlife movement corridors under WIS 164 at major stream crossings, and use of span bridges where possible to preserve a natural stream bottom. Supports proposal to create movement corridors where Butler’s garter snake (state-listed threatened species) habitat is located on both sides of the highway.

Source: DNR

Response: As indicated in the EIS, WisDOT will continue to coordinate with DNR during the project’s engineering design phase regarding the feasibility of providing a wildlife movement “bench” area under WIS 164 in conjunction with structures at major stream crossings, and use of span bridges (or placing the bottoms of culverts below the stream bottom elevation) to preserve a natural stream bottom. WisDOT will continue to coordinate with DNR concerning the design and location of movement corridors for Butler’s garter snakes.

4. Comment: Concerned with any ground-disturbing activity that may disturb deeply buried cultural resources. Requests notification if any such resources are encountered during construction.

Source: Menominee Indian Tribe of Wisconsin

Response: As indicated in the EIS, right-of-way needed for future WIS 164 improvements in the vicinity of the Lindsay Road and Pleasant Hill Road intersections would be carefully excavated during construction to confirm whether burials are present. A qualified archaeologist and/or Native American representative would be on site during the excavation. As noted in the EIS, no evidence of burials was found in the vicinity of the Lindsay Road or Pleasant Hill Road intersections during the EIS field studies.

Comments on the Final EIS were also received from the Sierra Club and five area residents, one of whom represents the ad hoc citizen group (SURE—Stop Unnecessary Road Expansion) opposed to widening County J/WIS 164. The majority of the comments reiterated concerns expressed in previous comments on the Draft EIS, and that were addressed by WisDOT to the extent possible under “Frequently Asked Questions and Comments” in EIS Section 9, or elsewhere in the EIS. Key issues that continue to be of concern are summarized as follows:

- **The 4-lane highway will induce traffic to the County J/WIS 164 corridor and volumes will be higher than future no-build volumes on the 2-lane highway. The induced traffic will increase human health risks related to air quality degradation.**
 - See comment response #7 (page 9-8), comment response #13, (page 9-10), and comment response #15 (page 9-12).
- **The Final EIS did not include the Lover's Lane project (Ackerville bridge) and its overall environmental impact.**
 - See comment response #4 (page 9-6).
- **The Final EIS does not discuss the cumulative impact of development or air quality emission sources in the study area, including the highway.**
 - See comment response #1 (page 9-5), and comment response #13 (page 9-10).
- **The EIS did not include alternatives that would improve the existing 2-lane highway in conjunction with other measures to generate less pollution such as speed limit reductions, discouraging single-occupancy vehicles, and increased bus or rail transit.**
 - See comment response #16 (page 9-12).
- **The Final EIS ignores the role of a 4-lane highway in encouraging development (sprawl).**
 - See comment response #11 (page 9-9).
- **The Final EIS should examine recent studies that indicate streams are destroyed when an area reaches 10% impervious surface.**
 - See comment response #28 (page 9-18).
- **The project's public hearing conducted on May 30, 2001 was improperly conducted as a "Georgia-Style" (open house) hearing designed to discourage citizen input.**
 - See comment response #30 (page 9-20).
- **A divided, 4-lane highway with a 55 mph speed limit will increase the level of danger to motorists.**
 - See comment response #8 (page 9-8), comment response #9 (page 9-8), and comment response #18 (page 9-13).